

**CHAPTER NO. 811**

**HOUSE BILL NO. 2915**

**By Representative Stanley**

**Substituted for: Senate Bill No. 2963**

**By Senator Haun**

AN ACT to amend Tennessee Code Annotated Title 54, Chapter 5, Part 1 relative to state highways.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 54-5-136, is amended by deleting subsection (a) in its entirety and by substituting instead the following:

(a)

(1) The department is authorized to remove, store, sell and dispose of personal property encroachments on the rights-of-way of highways under its jurisdiction at the expense of the owner.

(A) If the encroachment presents an immediate danger to the traveling public, the department may remove the encroachment without prior notice to the owner. If the owner's name and address can be ascertained by reasonable inquiry after removal, the department shall give the owner notice, by certified mail, within ten (10) calendar days of removal.

(B) If the encroachment does not present an immediate danger to the traveling public and the owner's name and address can be ascertained by reasonable inquiry, the department shall give the owner ten (10) calendar days notice, by certified mail, of its intent to remove the encroachment at the owner's expense. Such ten (10) day period shall run from the fourth day after the mailing of the notice. Upon expiration of such period, the department may remove the encroachment.

(2) The owner of personal property encroaching on the right-of-way of a highway under the jurisdiction of the department shall be liable for any damages caused to the department or to third parties by such encroaching property.

(3) The department does not have a duty to find or remove personal property encroachments on the rights-of-way under its jurisdiction. If the department receives actual notice that such an encroachment presents a hazard to those traveling on the adjacent roadway, the department shall, if the owner's name and address can be ascertained by reasonable inquiry, notify the owner of the property and instruct such property owner to remove the encroachment immediately. Such notice shall be sent by certified mail, return receipt requested. After notice, or if unable to locate the owner's name and address after reasonable inquiry, the department may remove the encroachment pursuant to subdivision (1).


SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.

**PASSED: May 29, 2002**

  
JIMMY NAIFEH, SPEAKER  
HOUSE OF REPRESENTATIVES

  
JOHN S. WILDER  
SPEAKER OF THE SENATE

**APPROVED this 11<sup>th</sup> day of June 2002**

  
DON SUNDQUIST, GOVERNOR